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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 17.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
And
The Hon'ble Mr. Justice V.DHANAPALAN

H.C.P. Nos.32 & 275 of 2006
& Writ Petition No.1612 of 2006
and W.P.M.P. No.1817 of 2006

HCP No.32 of 2006:-

A.Alima … Petitioner

Vs.

1. The State of Tamilnadu
Rep. by its Secretary,
Home Department, Fort St. George,
Chennai-600 009.

2. The Addl. Director
General of Prison,
No.1 Gandhi Irvin Road,
Egmore, Chennai-600 008.

3. Inspector General of Prison,
Central Prison, Coimbatore-641 018.

4. The Superintendent, Central Prison,
Coimbatore-641 018. … Respondents

HCP No.275 of 2006:-

1. W.Yusuf
2. S.A.Basha
3. Md.Ansari
4. Bhasi @ Md.Bhasith
5. Osheer @ Abdul Osheer
6. S.A.Md.Alikhan @ Kutty
7. Siddiq Ali @ Siddiq
8. Babu @ Uumai Babu
9. Zahir Hussin @ Ismail
10. Abdul Salam @ Salam
11. Aslam @ Tada Aslam
12. S.Siraj @ Auto Siraj

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13. M.H.Safoor Rahman
14. Abbas @ Kilakkarai Abbas
15. Jafur @ Syed Jafur
16. Ismail
17. Jaffar
18. Md Amzad Ali
19. Aman @ Amanullah
20. Md Samesha
21. Shajakhan
22. Amanullah
23. Jahangir
24. Md.Muthu @ Musthafa
25. Sarbudeen
26. Samsu @ Samsudeen
27. Abu @ Abudhakir
28. Jaffer Ali
29. L.M.Hakeem
30. Abu @ Abudhakir
31. Md.Rafik
32. P.R.Md.Rafi
33. Noor Mohamed
34. Basha @ Hussir
35. Ibrahim @ Babu
36. M.Hakkim
37. N.S.Hakkim
38. E.M.Monaffa @ Md.Hassan
39. Asraf
40. Abdul Razack
41. Md.Hasam
42. Syed @ Santh Moahmed
43. Riazh Ahamed @ Riazh
44. Abuthaheer @ Abu
45. Abu @ Abuthaheer
46. Md.Rafi
47. Abbass
48. Md.Ibrahim @ Belt Ibrahim
49. Abdul Rahman
50 Abbass @ Surutaimudi Abbass
51. Amanullah
52. Yahuf @ Khader
53. Saleem @ Saleem Basha
54. Yahub Khan @ Burketh
55. Abdul Kareem @ Babu
56. Abdul Farook
57. Hakeem @ Khaja
58. Illiyas
59. J.Abbaas
60. H.Ismail
61. Babu @ Md.Rafi
62. Ansari Basha

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63. Ibrahim
64. Khader
65. Abaass
66. B.Berketh
67. Jafar
68. M.Basha
69. Sadiq Basha
70. Akbar Basha
71. Asraf Ali
72. Musthafa
73. Abbas Ali
74. Abubakkar Siddiq
75. Sardhar @ Khan
76. Salaudeen @ Sha Nawaz
77. Sheriff
78. Md.Sabhi
79. Samjid Ahammed
80. Azeefullah
81. Abdul Nayeem
82. Bhava
83. Sarbudheen @ Sarbhu
84. E.M.Muthalif
85. H.S.Syed Haroon
86. Jafarullah @ Syed
87. Mohammed Rasool
88. Amanullah @ Babu
89. Bush @ Pushparaj
90. Nowshaad
91. Sardar @ Saithan
92. Abdul Raheem
93. Abdul Rahman
94. Abbaas @ Md.Abbaas
95. Anwar Bash @ Khalia
96. Sikkender Basha
97. Babu @ Sappai Babu @ Arokiaswami
98. Amman @ Ammanullah
99. Asraf Ali
100. Samsudeen
101. Khaja Hussain
102. Sivakumar @ Abdul Ameed
103. Abdul Rahman
104. Abdul Azeez
105. Hakim @ Anwar
106. S.Md.Subbair
107. Seyed Md.Bhukari
108. Idayathalikhan
109. Md.Rafi
110. Fakrudeen Ali Ahammed @ Fakkar
111. Mujibur Rahman @ Mujir
112. N.Shakul Ahmeed @ Immam ali

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113. Muji @ Mujibeer Rahman
114. Sivakumar @ Akkoji @ Abdullah
115. Ahammed Basheeer @ Nanthu Basheer
116. Siddiq Ali @ Sultan … Petitioners

vs.

1. The State of Tamil Nadu
Rep. by its Secretary,
Home Department,
Fort St. George, Chennai-600 009.

2. The Addl. Director
General of Prison,
No.1 Gandhi Irvin Road,
Egmore, Chennai-600 008.

3. Deputy Inspector General
of Prison,
Central Prison Campus,
Coimbatore-641 018.

4. The Superintendent,
Central Prison, Coimbatore-641 018.

5. D.Palani, Jailor,
Central Prison,
Coimbatore-641 018.

6. R.Kanagaraj,
Security Jailor,
Central Prison,
Coimbatore-641 018.

7. R.Sekar,
Deputy Jailor,
Central Prison,
Coimbatore-641 018.

8. Elavarasan,
Deputy Jailor,
Central Prison,
Coimbatore 641 018.

9. Dhandapani,
Warder, Central Prison,
Coimbatore 641 018.

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10. Bhoopathi,
Warder, Central Prison,
Coimbatore-641 018.

11. Mathivanan,
Warder, Central Prison,
Coimbatore-641 018.

12. Dhanavendran,
Warder, Central Prison,
Coimbatore-641 018.

13. Jegannathan,
Warder, Central Prison,
Coimbatore-641 018.

14. Sabaridoss,
Warder, Central Prison,
Coimbatore-641 018.

15. Loganathan,
Warder, Central Prison,
Coimbatore-641 018.

16. Prakash,
Warder, Central Prison,
Coimbatore-641 018. … Respondents

W.P. No.1612 of 2006:-

1. Samsuddeen
2. Basheer @ Nelliseri Basheer
3. Abbas … Petitioners

vs.

1. The Secretary,
Department of Home,
Fort St. George,
Chennai-600 009.

2. The Superintendent,
Central Prison, Coimbatore.

3. Palani,
Jailor, Central Prison,
Coimbatore.

4. Kanakaraj,

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Jailor, High Security Zone,
Central Prison, Coimbatore.

5. Sekar,
Deputy Jailor,
Central Prison,
Coimbatore. … Respondents.

HCP No.32 of 2006:- Petition under Article 226 of the Constitution of India for the issuance of a writ of habeas corpus, " a. Directing to produce the body and person of the petitioner's son A.Nazar, S/o.Abdul Jabbar by the 4th respondent; b. To direct the respondents 1 to 4 to provide protection and safety to the life of the petitioner's son A.Nazar; c. Directing the 4th respondent to permit the petitioner to have an interview with the petitioner's son, who is an under trial prisoner in S.C.No.2/2000 (on the file of the Bomb Blast Court at Coimbatore) and lodged in Central Prison, Coimbatore; and d. Order for an investigation and submission of a report by a panel of human right activists / lawyers regarding the torture and inhuman and degrading treatment meted out to the under trial prisoners of Coimbatore Central Prison and also the alleged death of the prisoners Nagarathinam and Rajendran, their torture and death reported in the Tamil Weekly "Nakeeran" dated 25-28 December 2005".

HCP No.275 of 2006:- Petition under Article 226 of the Constitution of India for the issuance of a writ of habeas corpus, a. Directing to produce the body and person of the petitioner Nos.1 to 116 by the 4th respondent; b. To direct the respondents 1 to 4 to provide protection and safety to the life of petitioner Nos.1 to 116; c. To direct the respondents 1 and 2 to initiate appropriate criminal and departmental action against the respondents 5 to 16 based on the complaints submitted by the petitioners and forwarded by the Special Court, Bomb Blast Cases, Coimbatore to the 2nd respondent and the complaints sent by the relatives of the petitioners to authorities; and d. Order for an investigation and submission of a report by a panel of Human Rights activities/lawyers regarding the torture and inhuman and and degrading treatment meted out to the under trial / convicted prisoners of Coimbatore Central Prison.

WP No.1612 of 2006:- Petition under Article 226 of the Constitution of India for the issuance of a writ of mandamus directing the first respondent to initiate appropriate proceedings against respondents 3 to 5 based on the representation dated 23.11.2005 sent by the petitioners.

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For Petrs. in the HCPs : Mr.C.Vijayakumar
For Petrs. in the W.P. : Mr.C.D.Sugumar
For Respondents/State : Mr.S.Ramasamy, Additional Advocate General, assisted By Mr.M.Babu Muthu Meeran, Addl. Public Prosecutor.

COMMON ORDER

P.SATHASIVAM, J.

In all these Petitions, the petitioners are either under trial prisoners/accused in SC No.2 of 2000 on the file of the Special Court for exclusive trial of Bomb Blast Case at Coimbatore or relatives of some of the accused.

2. For the purpose of brevity, we couch the prayers made in all the three Petitions in a composite parlance,

a. to direct the authorities concerned to produce the body and person of the individuals/prisoners mentioned therein;

b. to direct the respondents/superior authorities to take action against the errant respondents by taking both criminal and departmental action for their alleged acts as mentioned in the complaints made against them;

c. to direct the respondents concerned to ensure the protection and safety of the prisoners;

d. to direct the jail authorities to permit the relatives of the Prisoners to have interviews with them;

e. to order for investigation and report by human right activists / lawyers on the excesses alleged to have been committed by the jail authorities; and

f. to direct the Government to initiate appropriate proceedings against the respondents based on the representation dated 23.11.2005 sent by the petitioners.

3. Since all the three petitions are interlinked and the reliefs sought for therein are one and the same, they are being disposed of by the following Common Order.

For convenience, we refer to the case of the petitioners as stated in HCP No.275 of 2006.

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4. The case of the petitioners, in an abridged form, is as follows:-

Ever since confinement of the petitioners/prisoners in the Coimbatore Central Prison, they have been facing torture and most inhuman and degrading treatment at the hands of the Coimbatore Central Prison Officials. After the posting of D.Palani, Jailor and R.Kanagarj, Security Jailor (R-5 and R-6), attacks were intensified on the under trial prisoners. On 02.09.2005, one of the under-trial prisoners by name Nellicheri Abdul Basheer was brutally attacked at the instigation of Elavarasan, the Deputy Jailor (R8). On the complaint of Abdul Nazar Madhani and other prisoners, the Sessions Judge directed for production of Nellicheri Abdul Basheer before him on 05.09.2005. After seeing the said Abdul Basheer, the Sessions Judge ordered the Dean, Coimbatore Medical College (C.M.C.), to examine him and to submit a report in that regard on or before 08.09.2005. As there was failure on the part of the Hospital Authorities to submit the report as directed, the Sessions Judge forwarded a complaint to the Additional Director General of Prisons, for necessary action, as also a letter to the Secretary, Health Department, Government of Tamil Nadu, about the failure of the C.M.C. Hospital, Coimbatore, for submission of the report.

On 05.09.2005 itself, one of the under-trial prisoners by name J.Aslam had also submitted a written complaint before the Special court about the threat, coercion and intimidation caused to him by the Jailor and Security Jailor, by showing the rifle and asking him to plead guilty in the case. On 08.09.2005, 76 prisoners had submitted a complaint before the Special Court about the fear-psychosis or murder and death created amongst the prisoners by R.5, R.7 and R.8 to R.11 and requested to issue appropriate orders.

Since no medical report was filed in compliance with the order of the Sessions Judge, Nellicheri Abdul Basheer filed a petition on 13.10.2005 before the Sessions Judge for initiation of contempt proceedings against the Dean of the C.M.C. Hospital for wilful disobedience of the court order dated 05.09.2005, whereupon, a false report was submitted on 17.11.2005.

On 24.10.2005, Tmt.Rahmath Nisha, mother of the first petitioner sent a complaint to the Chief Minister regarding the assault and torture inside the prison. On 15.11.2005, one of the co-accused Nazar had submitted a complaint before the Special Court expressing his fear about the insecurity to his life by explaining the atrocities committed by respondents-5 to 8 and other Warders. The Sessions Judge forwarded the said complaints to the second respondent for appropriate action on 30.11.2005.

On 17.11.2005, prisoner Yusuf along with 99 prisoners herein had submitted a complaint before the Special Court regarding the excesses committed by respondents-5 to 8 along with 100 warders for attacking and locking them inside the cells and denying

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proper place for their Prayer. On 27.11.2005, the said Yusuf and three prisoners were attacked by respondents 7, 9, 11 and 12 along with Warders Sadayan and Parthasarathy. The petitioners had jointly submitted a complaint before the Sessions Judge on 28.11.2005 for taking action against the jail officials. The Sessions Judge noted the injuries on petitioner No.99, viz., Ashraf Ali, ordered for his production before the Medical Officer, C.M.C., Coimbatore. Medical Certificate was ordered to be furnished on 29.11.2005.

On 20.01.2006, respondent No.11 assaulted the first petitioner/Prisoner Yusuf while respondent No.16 punched him with fisted hand on his nose, resulting in bleeding injuries on the nose. On noticing the injuries and bloodstained cloths, the Sessions Judge sent him for medical examination by the Dean, C.M.C., Coimbatore.

On 18.01.2006, a convicted prisoner by name Ramasamy attempted to commit suicide and the Jail Officials did not take any precautionary measure for safeguarding the life and limb of the prisoner. On 05.02.2006, two convicted prisoners, viz., James and Senthil Kumar, attempted to commit suicide by jumping down from the top of the coconut tree and it was widely reported in the Press that the cause for the occurrences on 18.01.2006 and 05.02.2006 was the torture done by the Jail Officials on the prisoners.

The petitioners both individually and collectively made several complaints to respondents 1 to 3 through the Special Court for taking criminal and departmental actions against respondents 5 to 16, however, till date no action has been taken. The action of the respondents are against the provisions of the Prisons Act, 1894 and also violative of Article 21 of the Constitution of India.

Pointing out the above aspects, a request has been made for the constitution of an Expert Panel of human right activists/lawyers to inquire into the matter and submit a report relating to the complaints sent by the petitioners and their relatives.

5. The respondents filed counter affidavits, disputing and denying the averments made by the petitioners. The counter affidavit filed by the Superintendent of Prisons, Central Prison, Coimbatore, ie., the fourth respondent, is more exhaustive, hence, we shall refer to the contents therein.

According to him, administering the prisoners lodged in the Prisons in Tamil Nadu is carried out as per the Tamil Nadu Prison Rules, 1983, which were framed under Section 59 of the Prisons Act, 1894 (Central Act No.IX of 1894). The prisoners concerned

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in Bomb Blast Cases have been frequently indulging in anti-administrative activities and other unruly activities for one reason or other and whenever the Prison Officers made efforts to control such activities, which are against the Prison Rules, they use to make false complaints against the Prison Officials and file cases before the Sessions Judge for Trial of Bomb Blast Cases, Coimbatore. Respondents-5 and 6 are performing their duties as per the Prison Rules without any deviation which resulted in making false complaints against them by the prisoners.

In respect of an incident said to have taken place at 11.25 hours on 02.09.2005, prisoner Madhani shouted at Palanichamy/Chief Head Warder, who was on duty, in filthy language. On the same day, Madhani tried to assault Palanichamy/Chief Head Warder and it was Elavarasan, the Deputy Jailor, who rescued and sent him to the tower block. Prisoner Madhani shouted at Elavarasan and tried to assault him.

After dismissal of the Bail Petition moved by Madhani and his wife Soofia by the Supreme Court, Madhani and his associates bore a grudge against the prison officials and administration and started filing petitions containing false allegations before the Sessions Judge for trial of Bomb Blast Cases, Coimbatore. A Team named 'Operation Cell Phone Team' which was constituted exclusively to unearth cell phones from the prisoners inside Central Prison, Coimbatore, consisting of Jailors Palani and Kanagaraj, Deputy Jailor Sekar and some warders, conducted frequent surprise searches inside the Prison and seized contraband articles like cell phones, cellphone chargers, SIM card etc. on many occasions. The action of the team irritated the high risk prisoners. As such, 100 prisoners presented two petitions dated 05.09.2005 containing false allegations against the Prison Officials and the Prison Administration.

On 05.09.2005, prisoner Abdul Nazar Madhani had submitted a petition before the Sessions Judge, praying to initiate appropriate action against Elavarasan, Deputy Jailor, alleging that the said Official assaulted prisoner Nellichery Abdul Basheer; pursuant to which, Basheer was produced before Court on 05.09.2005. On his complaint, the Court directed the Dean, C.M.C. Hospital, Coimbatore, to examine him clinically and submit a Report. Nellichery Abdul Basheer was in good health condition at the time he was produced on 05.09.2005 before the Sessions Judge, which itself would show that he was not assaulted by Deputy Jailor Elavarasan on 02.09.2005 as alleged by the petitioners. No prisoner was assaulted by the prison staff during the incident that took place in the Central Prison on 02.09.2005, but, false rumours were spread by the supporters of Madhani and other Al-Umma prisoners. No officer and staff of Central Prison, Coimbatore, created any fear psychosis amongst

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the prisoners as alleged by the petitioners in the petition dated 08.09.2005.

All the prisoners were periodically being permitted for interviews. As prisoner Yusuf abused the Prison Officials with filthy language during the search made while he was taken to the court on 20.1.2006 and assaulted two warders, he was awarded the Prison punishment of interview cut for three months by the Superintendent, Central Prison, Coimbatore. On Appeal, the punishment was reduced to two months by the Additional Director General of Prisons on humanitarian grounds.

On 11.11.2005, 12 Muslim convict prisoners lodged in the III Block of Central Prison, Coimbatore, refused to go to the Block in the evening, thereby violated Rule No.271(1) of the Tamil Nadu Prison Rules, 1983, in demand of a separate block for their worship and daily prayers. They also scolded the Prison officials and the warders in filthy language when they attempted to push them into the cells. When routine search was conducted in the 10th block of the high security enclosure, the prisoners lodged therein abused the prison officials in filthy language and threatened them with death within a week, stating that they spent about Rs.30 lakhs to collapse the Coimbatore City by planting bombs.

The prison officials during the search on 14.11.2005 seized the contraband articles only from the 10th block where the high security prisoners are lodged. Regarding the allegation in respect of the incident dated 27.11.2005, 106 persons were produced in the Court of Sessions on 28.11.2005 at 10 A.M. The prisoners complained through their counsel that petitioner number 99/Ashraf Ali was assaulted by the prison officials on 27.11.2005, therefore, their lives were in danger in prison. As desired by the Sessions Judge, Ashraf Ali and three others were produced before him on 28.11.2005 in the afternoon. The Superintendent, Central Prison, Coimbatore, went to the court and informed the Special Prosecutor for Bomb Blast Cases to the effect that no prisoner was assaulted in the prison and Ashraf Ali was only restrained when he attacked the Prison Warders in the 11th Block. On the orders of the Sessions Judge, he was taken to C.M.C. Hospital under police escort and after examination by the Doctors; he was brought back to the Court.

The allegation that petitioner Yusuf and other prisoner Ashraf Ali were lodged in a separate cell was denied. It is further stated that Yusuf was taken to the court for trial, search was made in accordance with the Rules, at that time, he protested against the search and tried to go outside through the main gate. When he was prevented from going outside, he pushed a Warder on duty namely Kumaresan and abused the TSP personnel in filthy language. During that time; Sabaridass, Mathivanan and

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Prakash, Grade II warder of Riot Control Team; were attacked by prisoner Yusuf. Mathivanan and Prakash sustained injuries and were admitted as inpatients in C.M.C. Hospital for treatment. As per the Prison Rules, search is common for all prisoners.

As regards convict prisoner Ramasamy's attempt to suicide is concerned, it is stated that on 18.01.2006, due to some quarrel with other prisoners, he suddenly climbed on a tree near the block where he is lodged and attempted to commit suicide by using bed-sheet. Immediately, he was rescued by the prison personnel, given first aid in the Prison Hospital and thereafter, he was sent to C.M.C. Hospital for further treatment. A criminal case was registered against him. Likewise, convict prisoner James also climbed over the coconut tree on 5.2.2006 to pick the coconuts, however, on seeing the Warder, he came down from the tree quickly, in that course, he lost his hold from the tree and fell down. He was sent to C.M.C. Hospital for further treatment.

It is specifically stated that no prisoner other than those concerned in Bomb Blast cases has made any complaint against the Prison Officials and administration of Central Prison, Coimbatore.

The second respondent assumed charge as Additional Director General of Prisons on 15.09.2005. He visited the Central prison, Coimbatore, on various dates and took action to redress their grievances that are permissible as per Rules. Further, interviews are allowed as per Prison Rules to all the prisoners including the petitioners and no indifferent attitude was shown against the petitioners in the matter of interview as alleged. As the petitioners have indulged in unlawful activities against the Prison Administration, criminal cases were registered against them for committing offences against Prison Administration besides awarding punishment of interview cut to some of them according to Prison rules. There is no violation of human rights in dealing with the prisoners concerned in Coimbatore Serial Bomb Blast Cases as alleged by the petitioners.

6. The fourth respondent/Superintendent of Prisons, Central Prison, Coimbatore, also filed an additional counter affidavit reiterating the earlier stand and asserting that proper enquiries were conducted by the fourth respondent and appropriate action was initiated whenever necessary. He further stated that since all the prison officials acted in good faith in discharging their duties as per law and did not commit any excess in their duties, the 4th respondent did not initiate any departmental or criminal proceedings against the prison officials including warders of Central Prison, Coimbatore. No torture or ill-treatment was exercised upon any of the petitioners as contended by them. Apart from his daily routine rounds, the fourth respondent is conducting weekly inspection of the prisoners on every Tuesday as per Prison Rules along with Chief Medical Officer of CMC Hospital and prison officials in order to hear the grievances made by the

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petitioners and redress the genuine grievances represented by them then and there. Further, the District Sessions Judge also visits the prison once in a month and attends to the grievances made by the petitioners. A Member of the State Human Rights Commission also made visits twice to Central Prison, Coimbatore, in 2006 and no complaint was registered. The Prison Administration is providing all facilities to these prisoners in time for their education as permitted under the Prison Rules.

7. Other respondents also filed counter affidavits denying the allegations made against them and highlighting their stand.

8. The petitioners have filed reply affidavits refuting the stand taken by the respondents.

9. Heard Mr.C.Vijayakumar and Mr.C.D.Sugumar learned counsel appearing for the petitioners; and Mr. S.Ramasamy, learned Additional Advocate General, duly assisted by Mr.M.Babu Muthu Meeran, Additional Public Prosecutor.

10. Though an objection was raised that the Habeas Corpus Petitions are not maintainable, in view of the earliest Judgment of the Supreme Court reported in AIR 1980 SC 1579 (Sunil Batra v. Delhi Admn.), and considering the fact that the issues raised in these petitions relate to the right of under trial prisoners/prisoners and the judicial remedies available to them, we hold that the Habeas Corpus Petitions as well as the Writ Petition under Article 226 of the Constitution of India are maintainable.

11. It is the main grievance of the petitioners that some of the prisoners are being tortured at the hands of the Jail Authorities, hence, they require protection and safety. It is also their grievance that in spite of several complaints made in the form of petitions and representations and also directions of the Special Court for Bomb Blast Cases, Coimbatore, no criminal or departmental action was taken against respondents 5 to 16. It is also complained that some of them were denied interviews. They seek for ordering investigation and submission of a report by a panel of Human Right Activists/Lawyers regarding the torture and inhuman treatment meted out to the under-trial prisoners in the Coimbatore Central Prison.

12. On the other hand, Respondents-2 and 4 have filed detailed counter affidavits, wherein, by pointing out the action taken by the Prison Officials according to the Prison Rules; certain directions by the District Judge; Orders passed by the Superintendent of Prison and Additional Director General of Prisons on the complaints/representations/petitions of the jail inmates; excess on the part of the under-trial prisoners of

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Coimbatore Serial Bomb Blast Case, etc.; denied all the allegations made against the Prison officials.

13. The only point that arises for consideration in these Petitions is as to whether the petitioners/under trial prisoners suffered ill-treatment at the hands of the officials of the Central Prison, Coimbatore, and whether the provisions of the Prisons Act, 1894 and the Tamil Nadu Prison Manual are being strictly followed or not in the case of Prisoners and Coimbatore Serial Bomb Blast Case prisoners in particular.

14. Before proceeding further, it is relevant to mention that it is the specific case of the fourth respondent that the first petitioner Yusuf along with other 166 Muslim prisoners were arrested in connection with Coimbatore Serial Bomb Blast that occurred on 14.02.1998, in which, 58 people had lost their lives, more than 250 people were severely injured, properties worth Rs.4.32 crores were damaged and the entire Coimbatore city suffered chaos and disorder. These prisoners were lodged in Central Prison, Coimbatore, and the trial of their case in S.C.No.2 of 2000 is conducted before the Sessions Court for Trial of Bomb Blast Cases, Coimbatore, on day-to-day basis. It is the grievance of the jail officials that right from the date of their admission as remand prisoners in Central Prison, Coimbatore, they are frequently indulging in anti-administrative and unruly activities under one pretext or the other and the prison officials are facing much administrative difficulties in controlling them and in running the administration of prison smoothly. Though more than 2500 prisoners of various categories are lodged in the Prison, the Bomb Blast Case prisoners alone are in the habit of creating problems in the day-to-day administration of the prison.

15. According to the petitioners, one Nellicheri Abdul Basheer/Accused No.142 in S.C. No.2 of 2000 was asked to remove his underwear under the guise of checking and when he refused, he was separated from other prisoners at the instigation of Elavarasan/8th respondent (Deputy Jailor). He was brutally attacked by warders/respondents-9 to 12 and others. It is also their claim that about 100 under-trial prisoners submitted two separate memorandums before the Special Court, Coimbatore, regarding the attack on Nellichery Abdul Basheer and expressing their apprehension about the safety of the under-trial prisoners. Co-accused Abdul Nazar Madhani also submitted an application before the Special Court about the attack on Nellichery Abdul Basheer and the ill treatment meted out to him.

16. With regard to the same, the Superintendent of Prisons, Central Prison, Coimbatore, submitted that on 02.09.2005 at about

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11.25 hours, when remand prisoner No.4269 Abdul Saleem and convict Prisoner Nellichery Basheer entered into the Prison Hospital from Block No.1, Grade-II Warder Jayakumar and Deputy Jailor Elavarasan tried to search the said prisoners as per Rules, at that time, they pushed the Warder and the Deputy Jailor and entered into the Prison Hospital. After entering into the Block, the prisoners abused the Chief Head Warder Mahalingam and Deputy Jailor Elavarasan by uttering filthy language. On the same day, at 12.30 P.M., Al-Umma prisoners, numbering 30, including convict prisoners S.A.Basha and Nellichery Basheer, after finishing their prayer, were returning to the Blocks at 1.30 P.M.. At that time, the said Basheer was subjected to search by Warders Boopathy and Dhandapani. The prisoner did not co-operate for searching and by squatting on the ground, he created a scene as if he was assaulted by the Warders. At that time, Prisoner Madhani intervened and scolded the officials in filthy language.

17. It is further seen that, based on the complaint, the Special Court directed for production of Nellicheri Abdul Basheer. On production, he submitted a written complaint and the Special Court ordered for his examination by the Dean, C.M.C. and directed to submit a report on or before 08.09.2005. Concededly, no report was filed within time as directed by the Special Court, however, when a petition was filed for contempt, the hospital authorities submitted a report stating that Nellichery Abdul Basheer was in good health condition at that time. Though the conduct of the Hospital Authorities cannot be appreciated in not responding to the directions of the Special Court within the time granted, the fact remains, the said Basheer was in a good health condition and the report does not refer to presence of injuries on him. The particulars furnished, at the most, show that there was some altercation between the under-trial prisoners and the Jail Officials and that the prisoners often provoked the Jail Officials by violating the Prison Rules.

18. The next allegation relates to the complaint lodged by Aslam/petitioner No.11 before the Special Court about the threat, coercion and intimidation caused to him by the Jailor/Palani (R5) and Security Jailor/Kanagaraj (R6). It is their claim that after posting of the said two officers, tension and fear psychosis was created in the minds of the prisoners. The said Aslam also filed a petition dated 05.09.2005 before the Sessions Judge for trial of Bomb Blast Cases containing certain allegations against the prison officials.

19. It is the specific case of the fourth respondent that respondents-5 and 6 cannot threaten him by showing rifle because they do not carry any rifle with them and no one including the prison staff is permitted to take any weapon inside the Prison.

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It is also specifically stated that no threat was posed to Aslam to plead guilty since there is no motive or gain for any jail official to do so.

In the light of the explanation offered and of the fact that the Jail Authorities are not permitted to take any weapon inside the Prison, the claim of Aslam is liable to be rejected.

20. Regarding the complaint lodged by petitioner No.42 Syed @ Santh Mohammed and another accused Kitchan Buhari about the incident dated 03.09.2005 and the intimidation caused by the 8th respondent; the said aspect has been explained by the Superintendent of Prisons by stating that the prisoners, with a grudge and ulterior motive against the 8th respondent/Deputy Jailor Elavarasan, filed a petition containing false allegations against him keeping in mind the incident that took place on 02.09.2005 in Central Prison, Coimbatore.

21. By way of petition dated 08.09.2005, jointly submitted by 76 under-trial prisoners, complaint was made regarding the fear-psychosis created among the prisoners by R-7/Deputy Jailor R.Sekar along with respondents 5, 8 and 9 to 11. The said aspect has been specifically denied by the authorities by pointing out that criminal cases were registered only against the high risk prisoners, who indulged in unlawful activities violating the Prison Rules and for having abused/threatened the Prison Officials and prevented them from discharging their legitimate official duties.

22. One Rahamath Nisha sent a petition dated 24.10.2005 to the Additional Director General of Prisons making allegations against the prison Officials. It is pointed out that, on enquiry, it was found that the first petitioner Yusuf was not assaulted by the Prison Personnel either on 20.10.2005 or before or after 20.10.2005. It is also brought to our notice that on the date of making complaint, ie., on 24.10.2005, prisoner Yusuf was interviewed by his brother Sheik Musthafa. The particulars furnished show that prisoner Yusuf was permitted for interviews on 21.10.2005, 24.10.2005, 09.11.2005, 09.12.2005 and 06.01.2006. It is also brought to our notice that since the said Yusuf abused the prison officials in filthy language while he was taken to the Court on 20.1.2006 and assaulted two warders, he was awarded prison punishment of interview cut for three months by the Superintendent of Central Prison; and on appeal, the punishment was reduced to two months by the Additional Director General of Prisons on humanitarian grounds.

23. In respect of the complaint relating to provision of a separate block for performing prayers and the suffering of the prisoners at the hands of the prison officials, it is the stand of the Prison Officials that the prisoners scolded them in filthy

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language and threatened them with dire consequences. Since the prisoners started hunger strike on 14.11.2005; the District Collector, the Revenue Divisional Officer and the Tahsildar came and enquired the 12 Muslim convict prisoners as to whether they were assaulted by the prison officials. They demanded two separate cells in the third block of the Tower Block to conduct their daily prayers. They were advised to withdraw their hunger strike unconditionally. Accordingly, they took their food on 14.11.2005 and withdrew their hunger strike.

24. Regarding the complaints dated 15.11.2005 and 17.11.2005, the Superintendent denied the allegation that the jail officials have taken their belongings including court documents. The explanation of the Superintendent shows that the prison officials, during the search on 14.11.2005, seized the contraband articles only from the place where the high risk prisoners are lodged. Since the prisoners abused the prison officials in filthy language particularly Jailor Palani by his caste name, a case was registered against the prisoners concerned under Sections-294(b), 353 & 506 (ii) IPC; Sections 7(c) & (d) of the Protection of Civil Rights Act, 1955; and Section 3(1)(x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The said case is pending before Judicial Magistrate No.III, Coimbatore.

25. According to the petitioners, on 27.11.2005 Prisoner Ashraf Ali was assaulted by the prison officials and this was brought to the notice of the Sessions Judge, whereupon, all the prisoners were brought before him on 28.11.2005. It is seen that the Superintendent, Central Prison, went to the court and informed that no prisoner was assaulted in the Prison and that the said Ashraf Ali was only restrained when he attacked the warders in the 11th block. On the orders of the Sessions Judge, Ashraf Ali was taken to C.M.C. Hospital and after examination by the Doctors, he was brought back to court.

26. It is also brought to our notice that in order to facilitate the prisoners to meet their relatives, who are away from Coimbatore, on the orders of the Sessions Judge dated 02.12.2005, six prisoners were transferred to the Central Prison, Coimbatore, to Central Prison, Trichy, for a period of 15 days between 04.12.2005 and 30.12.2005 so as to be interviewed by their relatives and that they were readmitted in the Central Prison, Coimbatore.

27. Regarding the complaint that Sheik Musthafa and his other relatives were denied interview with his brother Yusuf, the Superintendent of Prisons furnished the details which show that Sheik Musthafa and other relatives were permitted to have interview with the said prisoner on the following dates:-

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" 21.10.2005 :1]Sheik Beebi : Prisoner's sister.
2]Sheik Musthafa : Brother-in-law.

24.10.2005 : Sheik Musthafa S/o.Abdul Wahaf
(Complainant – Prisoner's brother)

09.11.2005 : 1]Rahmath - Prisoner's mother
2]Kaja Hussain - Prisoner's brother
3]Jessitha - Brother's wife.

09.12.2005 : 1]Sheik Musthafa S/o.Abdul Wahaf
(Complainant – Prisoner's brother)
2]Rahmath - Prisoner's mother.

06.01.2006 : Sheik Musthafa S/o.Abdul Wahaf
(Complainant – Prisoner's brother)."

In the light of the above information, the grievance expressed that Yusuf was not permitted to be interviewed by his relatives seems to be baseless.

28. The particulars furnished in paragraph No.26 of the counter affidavit of the 4th respondent shows that prisoners Yusuf and Ashraf Ali were taken to Sessions Court along with other prisoners for attending trial of their case. Prior to taking them to the Court, they were searched by the Jail Officials, for that, they objected and in that course, they pushed the jail officials. It is brought to our notice that due to their action, Warders Mathivanan and Prakash sustained injuries and admitted as in-patients in CMC Hospital, Coimbatore, for treatment. For that, a criminal case was registered against the first petitioner in the court of Judicial Magistrate-III, Coimbatore, on 20.01.2006, under Sections 294(b), 353 and 506(2) IPC.

29. A careful analysis of the information furnished in the affidavit and reply by the respondents, particularly the officer concerned, viz., Superintendent of Prisons, Central Prison, Coimbatore-18, shows that there used to be frequent altercations between the under-trial prisoners on the one hand and the jail officials on the other hand; and that, taking note of the high risk prisoners; when the prison officials made search, physical and verbal objections were made by the prisoners resulting in untoward incidents. No doubt, in some instances, the under-trial prisoners complained that they sustained injuries; equally, the prison officials also complained that they were assaulted and manhandled by the under-trial prisoners. The particulars also show that complaints/representations have been made to the court, certain orders have been issued and some petitions have been forwarded to the higher officials for appropriate action. It is

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seen that R-2 and R-3 found that the prison officials were not directly responsible and that they only enforced the provisions/guidelines given in the Tamil Nadu Prison Manual strictly, which resulted in frequent friction/clashes between the prisoners and the prison officials. It cannot be said that no action was taken by any one, on the other hand, learned Additional Advocate General has brought to our notice various orders passed by the Sessions Judge on the representations/complaints of the prisoners as well as orders of the higher officials, viz., respondents-2 and 3.

30. It is not in dispute that all the petitioners are under-trial prisoners, and according to the respondents, they all come under the high risk category. The Prisons Act, 1894 and the Tamil Nadu Prison Manual contains several provisions as to how the prisoners are to be treated. The Manual contains elaborate provisions, duties and responsibilities of the Inspector General of Prisons, Deputy Inspector General of Prisons, Superintendents of Central Prisons, Jailors, Warders and also the manner in which prisoners are to be treated. Chapter XXXVIII of the Tamil Nadu Prison Manual relates to undertrial prisoners, which contains elaborate provisions as to how the under trial prisoners are to be lodged, their minimum comforts, health, sanitation etc.

31. As early as in 1980, the Hon'ble Supreme Court in Sunil Batra's case (Cited supra), after taking note of the constitutional provisions under Articles 14, 19 and 21; power of the Supreme Court under Article 32 and that of the High Court under Article 226; various provisions of the Prisoners Act; and prison Manuals of the States; issued several directions to the Jail authorities.

32. On the materials placed, we are satisfied that the grievance in the form of petitions and complaints were attended to by the Sessions Judge dealing with the Bomb Blast Cases, and higher officials of the Jail Department, hence, we are not inclined to accede to the request for further investigation by a panel of Human Right Activists/Lawyers or any other Team as claimed by the petitioners.

33. In the case on hand, we find that there is no need to produce all the petitioners/under-trial prisoners before this court, at the same time, we are conscious of the fact that the respondents, particularly R-2 to R-4 who are the enforcement officers of the Central Prison, Coimbatore, are duty bound to scrupulously follow the Rules and provisions of the Tamil Nadu Prison Manual in respect of safety of the prisoners and also about the discipline to be maintained in the Jail. The Rules regarding safety, which included rules regarding the facilities to be given to the under trial prisoners such as medical

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treatment, minimum comforts etc. shall be scrupulously followed by the Jail Authorities. If there is possibility of any untoward incident, the jail authorities have to take steps in advance to avoid such incidents or to avoid any violation of the rights of the jail inmates as per the guidelines and parameters fixed by the Hon'ble Supreme Court in Sunil Batra's case.

34. When the Jail authorities are entitled to enforce the the provisions in the Prison Manual for safety, protection etc., they are reminded that the inmates of the prison are to be treated in a dignified manner. The authorities have to keep in mind that the concern for reformation of prisoners and improvement of prison conditions has been judicially recognised. However, considering the attitude and activities of the prisoners, it is observed that they are expected to adhere to the Prison Rules and subject themselves to security check, frisking etc. whenever the jail authorities call upon them to do so while taking them to court/hospital. It is seen that lawyers, relatives and friends of the prisoners were permitted to interview them. However, considering the allegations, we make it clear that so long as the prisoners satisfy and fulfil the norms prescribed in the provisions of the Prison Manual, there cannot be any restriction on the interviews either by the relatives or by advocates. It is also made clear that whenever there is any excess, violation of human rights, the prisoners are entitled to make a complaint to the higher authorities and the court concerned, where they are facing trial, or to the visiting Judicial Officers. When any such complaint/representation is made to the above mentioned authorities, they are duty bound to enquire into the same and pass appropriate orders in accordance with law. Depending upon the outcome of the enquiry, whoever may be the culprits, either the prisoners or prison officials, have to be punished according to law.

35. With the above observations and directions to the respondents, particularly officials in charge of the prison administration, to strictly adhere to the provisions in the Tamil Nadu Prison Manual; and giving liberty to the petitioners/prisoners to complain to the court concerned, higher officials and visiting Judicial Officers to vindicate their grievance; all the above petitions are dismissed. Connected Miscellaneous Petition is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

JI.

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To

1. The Secretary, Home Department,
   Fort St. George, Chennai-600 009.
2. The Addl. Director General of Prison,
   No.1 Gandhi Irvin Road, Egmore, Chennai-600 008.
3. Deputy Inspector General of Prison,
   Central Prison Campus, Coimbatore-641 018.
4. The Superintendent, Central Prison, Coimbatore-641 018.
(With sufficient copies)
5. D.Palani, Jailor, Central Prison, Coimbatore-641 018.
6. R.Kanagaraj, Security Jailor,
   Central Prison, Coimbatore-641 018.
7. R.Sekar, Deputy Jailor, Central Prison,
   Coimbatore-641 018.
8. Elavarasan, Deputy Jailor, Central Prison, Coimbatore-18.
9. Public Prosecutor, High Court, Madras.

1 cc to Mr.C. Vijayakumar, Sr. 31531

in HCP Nos.32 and 275/06
& W.P. No.1612 of 2006.

HPR (CO)
kk 27/7

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